

September 2021 | Response to Comments

# HUB FULLERTON PROJECT

for City of Fullerton

*Prepared for:*

**City of Fullerton**

Contact: Heather Allen, Planning Manager  
303 W. Commonwealth Avenue  
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*Prepared by:*

**PlaceWorks**

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# 1. Introduction

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## 1.1 INTRODUCTION

This document includes a compilation of the public comments received on The Hub Fullerton Project Initial Study and Mitigated Negative Declaration (IS/MND) and the City of Fullerton (City) responses to the comments.

Under the California Environmental Quality Act (CEQA), a lead agency has no affirmative duty to prepare formal responses to comments on a mitigated negative declaration (MND). The lead agency, however, should have adequate information on the record explaining why the comments do not affect the conclusion of the MND that there are no potentially significant environmental effects. In the spirit of public disclosure and engagement, the City—as the lead agency of the Hub Fullerton Project—has responded to all written comments submitted during the 20-day MND public review period, which began August 24, 2021, and closed September 13, 2021.

## 1.2 FORMAT OF THE RESPONSE TO COMMENTS

This document is organized as follows:

***Section 1, Introduction.*** This section describes CEQA requirements and content of this Response to Comments document.

***Section 2, Response to Comments.*** This section provides a list of agencies and interested persons commenting on the IS/MND; copies of comment letters received during the public review period, and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (A1 through A3 for letters received from agencies and organizations, and R1 for the letter received from an interested party). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

***Section 3. Revisions to the Initial Study.*** This section contains revisions to the Initial Study text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the Initial Study for public review.

The responses to comments contain material and revisions that will be added to the text of the Initial Study. City of Fullerton staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the MND/IS for further public comment under CEQA Guidelines Section 15073.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the MND. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental

## 1. Introduction

impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15073.5.

## 2. Response to Comments

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This section provides all written responses received on the IS/MND and the City of Fullerton's responses to each comment.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the IS/MND are excerpted in this document, the sections are shown indented. Changes to the IS/MND text are shown in underlined text for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the IS/MND during the public review period.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
<b>Agencies &amp; Organizations</b>			
A1	South Coast Air Quality Management District	September 7, 2021	2-5
A2	Orange County Transportation Authority	September 13, 2021	2-9
A3	California Department of Transportation	September 13, 2021	2-13
<b>Residents and Interested Parties</b>			
R1	Lozeau Drury LLP (on behalf of SAFER)	September 13, 2021	2-19

## 2. Response to Comments

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## 2. Response to Comments

### 2.1 PUBLIC AGENCY COMMENTS

## 2. Response to Comments

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## 2. Response to Comments

LETTER A1 – South Coast Air Quality Management District (2 page[s])

A1



SENT VIA E-MAIL:

[Heather.Allen@cityoffullerton.com](mailto:Heather.Allen@cityoffullerton.com)

Heather Allen, AICP, Planning Manager

City of Fullerton, Community and Economic Development Department

303 West Commonwealth Avenue

Fullerton, California 92832

September 7, 2021

**Mitigated Negative Declaration (MND) for  
the Hub Fullerton Project (Proposed Project)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments on the CEQA air quality analysis and health risk reduction strategies should be considered by the City of Fullerton (Lead Agency) and included in the Final MND.

A1-1

Sensitive receptors are people that have an increased sensitivity to air pollution or environmental contaminants and include schools, daycare centers, nursing homes, elderly care facilities, hospitals, and residential dwelling units. The Proposed Project consists of 420 student housing units totaling 640,667 square feet on 3.55 and will be located in close proximity to State Route 57. To facilitate the purpose of a MND as an informational document, it is recommended that the Lead Agency perform a mobile source health risk assessment<sup>1</sup> to disclose the potential health risks<sup>2</sup> in the Final MND.

A1-2

Many strategies are available to reduce exposures, including, but are not limited to, building filtration systems with MERV 13 or better, or in some cases, MERV 15 or better is recommended; building design, orientation, location; vegetation barriers or landscaping screening, etc. Enhanced filtration units are capable of reducing exposures. However, enhanced filtration systems have limitations. For example, in a study that South Coast AQMD conducted to investigate filters<sup>3</sup>, a cost burden is expected to be within the range of \$120 to \$240 per year to replace each filter panel. The initial start-up cost could substantially increase if an HVAC system needs to be installed and if standalone filter units are required. Installation costs may vary and include costs for conducting site assessments and obtaining permits and approvals before filters can be installed. Other costs may include filter life monitoring, annual maintenance, and training for conducting maintenance and reporting. In addition, because the filters would not have any effectiveness unless the HVAC system is running, there may be increased energy consumption that the Lead Agency should evaluate in the Final MND. It is typically assumed that the filters operate 100 percent of the time while residents are indoors, and the environmental analysis does

A1-3

<sup>1</sup> South Coast AQMD's guidance for performing a mobile source health risk assessment can be found at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>.

<sup>2</sup> *Ibid.*

<sup>3</sup> This study evaluated filters rated MERV 13 or better. Accessed at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf>. Also see 2012 Peer Review Journal article by South Coast AQMD: <https://onlinelibrary.wiley.com/doi/10.1111/ina.12013>.

## 2. Response to Comments

Heather Allen

September 7, 2021

not generally account for the times when the residents have their windows or doors open or are in common space areas of the project. These filters have no ability to filter out any toxic gases. Furthermore, when used filters are replaced, replacement has the potential to result in emissions from the transportation of used filters at disposal sites and generate solid waste that the Lead Agency should evaluate in the Final MND. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail prior to assuming that they will sufficiently alleviate exposures to diesel particulate matter emissions.

A1-3  
Cont'd

Pursuant to CEQA Guidelines Section 15074, prior to approving the Proposed Project, the Lead Agency shall consider the MND for adoption together with any comments received during the public review process. Please provide South Coast AQMD with written responses to all comments contained herein prior to the adoption of the Final MND. When responding to issues raised in the comments, responses should provide sufficient details giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and the public who are interested in the Proposed Project.

A1-4

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact me at [lsun@aqmd.gov](mailto:lsun@aqmd.gov), should you have any questions.

Sincerely,

*Lijin Sun*

Lijin Sun

Program Supervisor, CEQA IGR

Planning, Rule Development & Area Sources

LS  
ORC210824-07  
Control Number

## 2. Response to Comments

**A1. Response to Comments from Lijin Sun, Program Supervisor, CEQA IGR, Planning, Rule Development & Area Source, South Coast Air Quality Management District, dated September 7, 2021.**

A1-1 The City reviewed and considered the comments regarding CEQA air quality analysis and health risk reduction strategies.

A1-2 Impacts of the environment on a project are not CEQA impacts (*California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369, Case No. S213478). Therefore, an on-site health risk assessment (HRA) was not performed as part of the IS/MND to determine the level of Minimum Efficiency Reporting Value (MERV) filters needed to reduce risk from State Route 57 (SR-57). However, the California Building Code (Title 24), Part 6 (California Building and Energy Efficiency Standards) as well as Part 11 (California Green Building Standards Code [CALGreen]) has standards for enhanced filtration for multi-family residential buildings to improve indoor air quality. Under Title 24, Part 6, Section 120.1(b)(1)(C) and Part 11 (Section 5.504.5.3), multifamily residential buildings that are four stories or higher are required to use MERV-13 filters, which filter 80 to 90 percent of particulates between 1.0 to 3.0 microns and over 90 percent of particulates between 3 to 10 microns. As a result, compliance with existing regulations is sufficient to ensure a healthy indoor air quality environment.

A1-3 Please see response to comment A1-2.

A1-4 Pursuant to CEQA Guidelines Section 15074, the City has reviewed and responded to comments received on the IS/MND during public review period. As requested, the City will provide written responses to all comments contained in the letter.

## 2. Response to Comments

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## 2. Response to Comments

LETTER A2 – Orange County Transportation Authority (2 page[s])



A2

**BOARD OF DIRECTORS**

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- CHIEF EXECUTIVE OFFICE**
- Darrell E. Johnson*  
Chief Executive Officer

September 13, 2021

Ms. Heather Allen, Planning Manager  
City of Fullerton  
303 West Commonwealth Avenue  
Fullerton, CA 92832

Subject: **The Hub Fullerton Project Initial Study**

Dear Ms. Allen:

Thank you for providing the Orange County Transportation Authority (OCTA) with the Notice of Intent and Initial Study for The Hub Fullerton Project. The following comments are provided for your consideration.

- Initial Study:
  - Page V, Abbreviations and Acronyms identifies the CMP as the Congestion Management Program. However, neither the Initial Study nor Appendix M – Traffic makes any reference to the CMP. A2-1
  - Page 116, Section 3.17 ('Transportation'), Subsection 3 ('Environmental Analysis'), N. Commonwealth Avenue is described as a facility with two lanes in both directions. Please note that adjacent to the project site and south, Commonwealth Avenue is built with one southbound lane and two northbound lanes. A2-2
- HUB Fullerton Specific Plan:
  - Section 2.3 ('Circulation Plan'), Subsection 2.3.2 ('Arterials'), describes East Chapman Avenue as a 4-lane roadway with a median. Please note that Chapman Avenue is constructed as a 5-lane roadway between State College Boulevard and the SR-57 southbound on-ramps, with three westbound lanes and two eastbound lanes. A2-3
- Please note that Chapman Avenue is designated as a Major (six-lane, divided) Arterial per the Master Plan of Arterial Highways (MPAH). The proposed project should not preclude the buildout of Chapman Avenue as it relates to potential future Right-of-Way needs. A2-4

Orange County Transportation Authority  
550 South Main Street / P.O. Box 14184 / Orange / California 92863-1584 / (714) 560-OCTA (6282)

## 2. Response to Comments



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*Darrell E. Johnson*  
Chief Executive Officer

Throughout the development of this project, we encourage communication with OCTA on any matters discussed herein. If you have any questions or comments, please contact me at (714) 560-5907 or at [dphu@octa.net](mailto:dphu@octa.net).

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Phu", written over a light blue horizontal line.

Dan Phu  
Manager, Environmental Programs

Orange County Transportation Authority  
550 South Main Street / P.O. Box 14184 / Orange / California 92863-1584 / (714) 560-OCTA (6282)

## 2. Response to Comments

### A2. Response to Comments Dan Phu, Manager, Environmental Programs, Orange County Transportation Authority, dated September 13, 2021.

A2-1 Comment is noted. Per your comment, the following modification to the IS/MND has been made. The modification would not change the analysis or conclusion of the IS/MND. Changes made to the IS/MND are identified here in ~~strikeout~~ text to indicate deletions and in underlined text to signify additions.

Page 115, Section 3.17, Transportation:

#### **Orange County Transportation Authority Congestion Management Plan**

The Orange County Transportation Authority (OCTA) is the subregional planning agency with responsibilities for all of Orange County. The Orange County CMP was established in 1991, and the most recent CMP was adopted in 2019. The CMP requires that a traffic impact analysis be conducted for any project generating 2,400 or more daily trips, or 1,600 or more daily trips for projects that directly access the CMP Highway System. The proposed project does not take direct access from the CMP Highway System since the nearest CMP Highway, State College Boulevard, is located more than 1,600 feet to the west of the proposed project. Since the proposed project is forecast to generate 1,730 daily trips, or 670 daily trips below the established analysis threshold, a CMP analysis is not required.

A2-2 Comment is noted. We understand that N. Commonwealth Avenue is an east-west roadway that makes a wide sweeping 90 degree turn south of E. Chapman Avenue through a residential neighborhood to head north-south adjacent to the project site. South of E. Chapman Avenue, the roadway is provided with one travel lane in each direction, bike lanes, a center two-way left-turn lane, and a 35mph speed limit. In the first block north of E. Chapman Avenue adjacent to the project site, N. Commonwealth Avenue is provided a second northbound travel lane, a raised landscaped median, bike lanes, turn pockets, and a 30mph posted speed limit. N. Commonwealth Avenue continues northerly to its terminus at Nutwood Avenue with two travel lanes in each direction, a raised landscaped median and turn pockets. However, the IS/MND provides a simplified description of N. Commonwealth Avenue, and detailed description of N. Commonwealth Avenue would not change the analysis or conclusion of the IS/MND.

A2-3 Comment is noted. We understand that westbound E. Chapman is currently striped with two travel lanes adjacent to the project site with an extended third right-turn only lane at N. Commonwealth Avenue. The Hub Fullerton Specific Plan provides a simplified description of E. Chapman Avenue and the noted clarification would not change the analysis or conclusion of the IS/MND.

A2-4 Comment is noted. Although westbound Chapman is currently striped with two travel lanes adjacent to the proposed project site with an extended third right-turn only lane at

## 2. Response to Comments

Commonwealth Avenue, the existing northern half roadway width is sufficient to provide for three westbound travel lanes in accordance with the Master Plan of Arterial Highways (MPAH). Therefore, the proposed project does not preclude the buildout of Chapman Avenue as a future six-lane divided Major Arterial.

## 2. Response to Comments

LETTER A3– California Department of Transportation, District 12 (2 pages)

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, Governor

A3

### DEPARTMENT OF TRANSPORTATION

DISTRICT 12  
1750 EAST 4<sup>TH</sup> STREET, SUITE 100  
SANTA ANA, CA 92705  
PHONE (657) 328-6000  
FAX (657) 328-6522  
TTY 711  
www.dot.ca.gov/caltrans-near-me/district12



Making Conservation  
a California Way of Life.

September 13, 2021

Heather Allen  
Planning Manager  
303 West Commonwealth Avenue  
Fullerton, CA 92832

File: IGR/CEQA  
SCH#: 2021080143  
IGR LOG #2021-01768  
SR-57

Dear Ms. Allen,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Dr Initial Study for The Hub Fullerton project located at 2601, 2701, and 2751 E Chapman Avenue. The project proposes to construct a 420-unit (1,251 bed) student-oriented housing development with 12,438 square feet of neighborhood serving commercial uses. The project site is bordered by the SR-57 southbound off-ramp right of way easement and the SR-57 to the east. The mission of Caltrans is to provide a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability.

Caltrans is a responsible agency on this project and has the following comments:

#### **Transportation Planning**

1. The Initial Study notes that the bicycle parking room will be controlled by a fob-based entry system. Consider providing bicycle parking for the retail uses included on the site (i.e., non-fob-controlled bicycle parking for visitors/employees). This will promote the use of active transportation to access the retail areas.

A3-1

#### **Traffic Operations**

2. The TIA does not include a Traffic Impact Table for the Freeway System mainly SR-57 or Mitigating Measures even though analysis of future traffic reduces LOS to E for Nutwood ramps (SB AM Peak and NB AM Peak) from a better LOS C. Please submit the table along with discussion for further review and comment.

A3-2

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"*

## 2. Response to Comments

Ms. Heather Allen  
September 13, 2021  
Page 2

### **Advanced Planning**

3. Please ensure the location of the ingress/egress driveway on Chapman Ave. to ensure that the distance between the driveway and the SR-57 Southbound offramp are adequate. Please refer to Section 205.3 Urban Driveways in the Caltrans Highway Design Manual found at the link below:  
<https://dot.ca.gov/programs/design/manual-highway-design-manual-hdm>

A3-3

### **Encroachment Permits**

4. In the event of any activity in Caltrans right of way an Encroachment Permit will be required. All environmental concerns must be addressed. If the environmental documentation for the project does not meet Caltrans requirements, additional documentation would be required before approval of the Encroachment Permit. For application forms and specific details on Caltrans Encroachment Permits procedure, please refer to Encroachment Permits Manual. The latest edition of the Manual is available on: <http://www.dot.ca.gov/trafficops/ep/apps.html>.

A3-4

Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, please do not hesitate to contact Julie Lugaro at [Julie.lugaro@dot.ca.gov](mailto:Julie.lugaro@dot.ca.gov).

A3-5

Sincerely,



Scott Shelley  
Branch Chief, Regional-IGR-Transit Planning  
Caltrans, District 12

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"*

## 2. Response to Comments

### A3. **Response to Comments from Scott Shelley, Branch Chief, Regional-IGR-Transit Planning, Caltrans, District 12, dated September 13, 2021.**

A3-1 Suggestion is noted and the City will coordinate with the project applicant to determine if the site plan can incorporate publicly accessible bike parking for the employees and visitors. Under the California Green Building Standards Code (CALGreen), mixed-use buildings are required to provide permanently anchored, short-term parking for visitors based on 5 percent of new visitor vehicle parking spaces with a minimum of one two-bike capacity rack within 200 feet of the visitors entrance (Section 5.106.4.1, Bicycle Parking).

A3-2 Caltrans Transportation Impact Study Guide (TISG) (May 2020) states:

“Additional future guidance will include the basis for requesting transportation impact analysis that is not based on VMT. This guidance will include a simplified safety analysis approach that reduces risks to all road users and focuses on multi-modal conflict analysis as well as access management issues. With this guidance the Department will transition away from requesting LOS or other vehicle operation analyses of land use project.”

CEQA Guidelines Section 15064.3 specifies that VMT shall be used to determine significant transportation impacts under CEQA. Accordingly, project impacts on roadway level of service is not considered a significant impact under CEQA. As mainline LOS is not an impact under CEQA analysis, and the Caltrans TISG states that LOS will not be requested by Caltrans for land use projects, the comment related to LOS and the request to provide additional LOS analysis is inconsistent with CEQA and with current Caltrans policy. Therefore, the additional LOS analysis of the State Highway System as requested by the commentor will not be provided as a part of the IS/MND.

A3-3 Caltrans Highway Design Manual (HDM) Section 205.3 provides guidance on the minimum width of driveways and corner sight distance requirements on Caltrans facilities, and there is no reference to minimum spacing between interchanges and driveways in this section. HDM Section 504.8 states that access control should extend 100 feet beyond the face of the curb return in urban areas. The driveway on E. Chapman Avenue is approximately 400 feet from the SR-57 southbound offramp, which is consistent with the HDM requirements. Additionally, Fehr & Peers reviewed the operations of the driveway and E. Chapman Avenue to determine if additional traffic controls at the unsignalized driveway or along E. Chapman Avenue were warranted. That review concluded that the placement, physical characteristics, and traffic demands of the driveway will not degrade traffic operations or safety along E. Chapman Avenue.

A3-4 Comment is noted. In the event of any activity in Caltrans right-of-way, an application for an encroachment permit will be filed.

## 2. Response to Comments

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## 2. Response to Comments

### 2.2 RESIDENTS AND INTERESTED PARTIES COMMENTS

## 2. Response to Comments

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## 2. Response to Comments

LETTER R1 – Lozeau Drury, LLP (1 page[s])

R1



T 510.836.4200  
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1939 Harrison Street, Ste. 150  
Oakland, CA 94612

www.lozeaudrury.com  
richard@lozeaudrury.com

*Via Email*

September 13, 2021

Heather Allen, Planning Manager  
Community and Economic Development  
City of Fullerton  
303 W. Commonwealth Ave.  
Fullerton, CA 92832  
[heather.allen@cityoffullerton.com](mailto:heather.allen@cityoffullerton.com)

**Re: Comment on Mitigated Negative Declaration, Hub Fullerton Project (PRJ 2020-00008)**

Dear Ms. Allen:

I am writing on behalf of Supporters Alliance for Environmental Responsibility (“SAFER”) regarding the Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared for the Hub Fullerton Project (PRJ 2020-00008), including all actions related or referring to the proposed development of a six-story, 420-unit student-oriented housing project with 12,438 square feet of neighborhood-supporting commercial space on the ground floor, located at 2601, 2701, and 2751 E. Chapman Avenue in the City of Fullerton (“Project”).

After reviewing the IS/MND, we conclude the IS/MND fails as an informational document, and that there is a fair argument that the Project may have adverse environmental impacts. Therefore, we request that the City of Fullerton (“City”) prepare an environmental impact report (“EIR”) for the Project pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000, et seq.

We reserve the right to supplement these comments, including but not limited to at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Drury".

Richard Drury

R1-1

## 2. Response to Comments

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## 2. Response to Comments

**R1. Response to Comments from Richard Drury, Lozeau Drury LLP, on behalf of Supporter Alliance for Environmental Responsibility (SAFER) dated September 13, 2021.**

R1-1 The letter states that there is a fair argument that the proposed project may have adverse environmental impact and requests that an environmental impact report is prepared. However, the comment was not substantiated with any supporting analysis. The letter states that they reserve the right to supplement the comments. No further response is necessary.

## 2. Response to Comments

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## 3. Revisions to the Initial Study

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### 3.1 INTRODUCTION

This section contains revisions to the IS/MND based upon additional or revised information required to prepare a response to a specific comment. Changes made to the IS/MND are identified here in ~~strikeout text~~ to indicate deletions and in underlined text to signify additions.

### 3.2 INITIAL STUDY/MND REVISIONS IN RESPONSE TO WRITTEN COMMENTS

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Page 115, Section 3.17, *Transportation*. The following text has been modified in response to Comment A2-1 from OCTA.

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#### **Orange County Transportation Authority Congestion Management Plan**

The Orange County Transportation Authority (OCTA) is the subregional planning agency with responsibilities for all of Orange County. The Orange County CMP was established in 1991, and the most recent CMP was adopted in 2019. The CMP requires that a traffic impact analysis be conducted for any project generating 2,400 or more daily trips, or 1,600 or more daily trips for projects that directly access the CMP Highway System. The proposed project does not take direct access from the CMP Highway System since the nearest CMP Highway, State College Boulevard, is located more than 1,600 feet to the west of the proposed project. Since the proposed project is forecast to generate 1,730 daily trips, or 670 daily trips below the established analysis threshold, a CMP analysis is not required.

### 3. Revisions to the Initial Study

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